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CENTRAL ILLINOIS ORGANIZING PROJECT

October 17, 2001

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Docket No. 1112
Ms. Jennifer J. Johnson
Secretary
Board of Governors of the Federal Reserve System

Robert E. Feldman
Executive Secretary
Attention: Comments/OES
Federal Deposit Insurance Corporation

Docket No. 01-16, Communications Division
Office of Comptroller of the Currency

Regulation Comments
Chief Counsel's Office
Office of Thrift Supervision

Via electronic mail

Dear Sirs/Madam:

The Central Illinois Organizing Project (CIOP) wishes to respectfully file these comments with each aforementioned regulatory agency regarding the Advanced Notice of Proposed Rulemaking on the Community Reinvestment Act. CIOP is a non-profit, faith-based community organization in the central region of Illinois. The organization's membership is composed of congregations from a variety of religious denominations, NAACP chapters and organized labor. The communities within the CIOP region include: Bloomington-Normal, Champaign-Urbana, Decatur, Danville, Springfield and Peoria.

CIOP's interest in this matter is related to its mission of improving low and moderate income communities and neighborhoods, as well as its history regarding banking reinvestment and the Community Reinvestment Act. In 1997 CIOP negotiated a comprehensive CRA related partnership with National City Bank related to its desire to acquire First of America Bank. This agreement, still in effect, targets increased affordable homeownership lending to central Illinois' low and moderate income borrowers and increases services to their communities. This was the first such CRA partnership in Illinois outside of Chicago. Another partnership was negotiated with Bank One in 2000 along similar

lines. In both circumstances CIOP filed formal comments with the Office of Comptroller of the Currency regarding CRA compliance issues.

For the purposes of these comments, it is important to note that CIOP has sought to fully utilize its rights under CRA and implement the spirit of CRA in more ways than simply filing protests with regulatory agencies. After the Bank One – First Chicago NBD acquisition was completed (with the resultant denial of CIOP's claims filed in its protest) CIOP continued to seek full enforcement of CRA in regards to Bank One. The organization held a first-of-its-kind private meeting with OCC officials from Washington, D.C. in Bloomington, Illinois. CIOP representatives also traveled at their own expense to OCC headquarters to discuss reinvestment concerns about the financial institution.

CIOP identifies three primary, unmet needs in any proposed modification of current CRA regulations.

- 1. Enforcement of current CRA regulations is severely lacking. Not only do present enforcement procedures need to be enhanced, but a new multi-agency commitment should be made to actually implement any changes resulting from this proposed rulemaking.**

It was the experience of CIOP leaders that minimum standards of CRA enforcement were difficult to achieve in the Bank One – First Chicago NBD merger. For example, financial institutions are to have regular CRA compliance examinations. However, a number of local Bank One banks in central Illinois communities (not branches but chartered institutions) had not been examined for CRA compliance for 3 to 5 years. This was also true for the larger state-wide institution. Even the wisest regulation is ineffective when the time between examinations is so lengthy. And though CIOP raised this issue in its protest to the merger, the Federal Reserve chose to rely on the last CRA evaluation completed by the OCC, an evaluation that did not take into account any HMDA analysis or performance factors since that old exam years previous.

The reply we heard that the agencies were doing the best they could with the limited examination staff personnel is understandable. In the case where CRA issues are raised, such as in a protested merger, there is nothing in current regulations that would prevent a new CRA examination to be conducted if the last exam was at least three years old. A reliance on dated CRA exams when new information presented by community groups is submitted into the record, is an insult to the community and its leaders.

CIOP recommends that in a protested matter where a CRA exam is three years old (or older), the lead regulatory agency be required to complete a up-to-date CRA compliance examination.

Regulatory agencies should renew their commitment to full participation by all facets of the community in their decision-making on CRA concern. This means that public hearings should be granted during contested CRA proceedings. As the agencies would agree, over the last decade community groups almost always ask for public hearings in CRA protests and the agencies turn them down – almost always. The encouragement of public input is a cornerstone of American participatory democracy. CRA issues are not simply a series of econometric models but also seek to achieve great social ends of reinvesting in low and moderate income neighborhoods.

While some public hearings have been held in CRA proceedings (e.g. Bank One 1998) they tend to be held in one location and during times when low and moderate income families are not able to attend because of their work.

In the matter of the Bank One – First Chicago NBD merger, there was nothing in the current regulations that would have prevented the Chicago Federal Reserve from coming to Springfield Illinois for an evening public hearing. Unfortunately what actually happened was families had to take a day off work to travel by bus to Chicago to have their voice heard (indeed 50 CIOP members did this which shows their, and the organization's commitment, to CRA).

CIOP recommends that as a matter of course public hearings be scheduled in locales where they are requested and held at times that low and moderate income customers can attend.

“Grade inflation” of current CRA evaluations has become a joke and a sad commentary on the lack of enforcement of present regulations. Other commenters in this ANPR proceeding (e.g. National People's Action) have commented in detail regarding the current scoring system and this issue. By no stretch of the imagination are 97% of all financial institutions doing a “satisfactory” or “outstanding” job in meeting the credit needs of its community, including low and moderate income neighborhoods.

CIOP recommends that a complete overhaul of the current CRA rating system be undertaken in this proposed rulemaking. This effort should focus on a bank's actual performance in meeting its CRA responsibilities rather than process oriented issues.

2. **Specific new changes should be made to CRA. These include issues relating to fair housing, inclusion of all affiliate activities of bank holding companies, and for localized CRA ratings.**

CIOP recommends that lending disparities based on race of borrower be included as a primary test of a bank's CRA evaluation.

The issue of race-based disparities in housing lending may be the single most important community banking issue of our time – though ironically little is done about it. Since the Pulitzer prize winning stories in the Atlanta Constitution “The Color of Money”, to the Boston Fed study of race and lending of a number of years ago there have been no substantive regulatory changes addressing the issue of race and lending. In a HMDA analysis for literally any bank in any given year, racial minorities experience higher denial rates and lower approval rates than whites. When income of borrower is factored in, lower income whites still have higher approval rates than upper income minorities (and conversely higher minority denials compared to lower white denials).

The argument is presented that these so-called “fair housing” issues are under the primary auspices of HUD and not banking regulators. Racial disparities are supposedly taken into account in some CRA rated examination process criteria however. The fact remains that the banking industry can not police itself in correcting racial lending disparities. And for that matter either HUD is ill equipped to address this issue or has chosen not to address it in any substantial way.

This proposed rulemaking presents a superb opportunity for the regulatory agencies to begin the hard work necessary to address this societal and banking issue. The notion of “community” in the words

“community reinvestment act” should be expanded to embrace identifiable segments of the community in addition to simply view community as geography. A tacit acknowledgement of this is already the case when examining all the various categories (e.g. race, gender, income of borrower) required in HMDA.

CIOP recommends that CRA apply to all affiliates of financial institutions.

CRA should also clearly apply to all of the various affiliate activities of a bank holding company. In today’s financial world, rarely does a depository bank institution provide for all of the retail banking needs of its customers.

Though transparent to the customer, their credit card application may go to one affiliate, while their home equity loan goes to another, checking account in a different place and so too their home mortgage to yet another wholly-owned affiliate. CRA should apply to all of these affiliates and their activities, especially when their activities have a direct relation to neighborhood capital markets (and the disinvestment of that market).

Current regulations are confusing on this issue and were clearly not written for today’s widely diversified financial institution. Presently financial institutions are able to play a “shell game” when it comes to what it chooses to include in CRA performance. Good regulation is simple regulation. Financial diversification of services (and the names they operate under) should not be used as an excuse to hide from regulatory enforcement.

CIOP recommends that new regulations be adopted that create CRA ratings for individual communities throughout a banks service area.

Localized ratings means that CRA examinations and ratings would be provided for a bank for each community (MSA) in which it operates. In the CRA examination of banks not all communities are reviewed regarding how the bank fulfills, or doesn’t fulfill, its CRA responsibilities. For larger, regional financial institutions the issue of where to look for CRA becomes problematic. Central Illinois is a case in point. A significant part of the housing lending market is served by larger regional banks with headquarters located in, for example, Chicago, Cleveland and Memphis. The CRA activities of these banks in their headquarter communities has no correlation with their CRA activities in Springfield, Decatur or Peoria. Local communities have a right to enjoy the benefits of community reinvestment even though they may not be the location of a national bank headquarters.

3. CRA should be modernized to prohibit the counting of subprime lending as CRA related lending, and regulations should be adopted to stop predatory lending.

CIOP recommends that CRA be expanded to stop predatory lending and not allow banks to include subprime loans for CRA credit.

All banking regulatory agencies agree that predatory lending is a problem but no agency has a plan or strategy to address this issue in a regulatory way. These comments will not repeat what is already known about how predatory lenders operate and the harm they create in the financial lives of families.

Subprime loans should not be counted as CRA related lending. Communities of need require credit that reinforce homeownership and repair, not expensive, high fee, high interest rate credit that creates delinquency and foreclosure. No subprime lender has demonstrated that excessive rates and fees for first or even second mortgages are economically necessary to cover increased risk associated with borrowers with bad credit. Indeed there is a correlation between neighborhoods with high concentrations of subprime loans and increases in mortgage foreclosures.

CRA was intended to help communities and not hurt them. Counting subprime loans as CRA related loans would only increase the incentive for banks to provide two kinds of loans, one for traditional borrowers (prime) and another for low and moderate income borrowers and their neighborhoods (subprime). This notion of two tiered lending is tantamount to economic jim crow.

New regulations under the auspices of CRA should be adopted to control and stop predatory lending. HOEPA regulations under HUD and Treasury do not adequately address the problem, under HOEPA predatory lending continues unabated. Two states have taken the lead in anti-predatory lending regulation (Illinois and North Carolina). These initiatives can provide the basic framework for anti-predatory lending regulation on the federal level. CIOP assisted in educating Illinois lawmakers regarding predatory lending and effective remedies. The organization would be happy to provide similar information to the regulatory agencies should they desire.

Thank you for your attention to these issues. Should further information be desired, or if we can clarify any of the presented issues, please do not hesitate to contact our organization.

Sincerely yours,

/s/
Don Carlson
Executive Director